

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed December 5, 2006. At the time of the Office Action, Claims 1-5, 7, 8, 10, 11, 13-23, 25 and 26 were pending in this Application and were rejected. Claims 6, 9, 12, 24 were previously cancelled without prejudice or disclaimer. Claim 1 has been amended to further define various features of Applicant's invention. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §112

Claims 1-5, 7-8, 10-11, 13-23 and 25-26 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 1 has been amended and Applicant submits the Claim 1 and the Claims dependent therefrom meet the definiteness requirement under 35 U.S.C. §112. Applicant requests reconsideration and withdrawal of the rejection under §112.

Rejections under 35 U.S.C. §102

Claims 1, 2, 4, 5, 10, 11, 13-18, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,277,112 issued to Underwood et al. ("Underwood"). Applicant respectfully traverses and submits that cited does not teach each and every element of the claimed embodiment of the invention.

Independent Claim 1, as amended, includes "independently advancing at least one optic fiber through an access device and into a nucleus of the disc ...". The office action contends that Figures 16 and 17 disclose "[i]ndependently advancing at least one optic fiber 324 into a nucleus of the disc through an access device 302 ...".

Applicants note, however, that Underwood does not disclose, teach or suggest independently advancing an optic fiber through (or with respect to) the access device. Instead, the endoscope 316 appears to be fixed within respect to catheter assembly 306 and terminates in lens 324. See Col. 26, line 67 – Col. 27, line 8. This understanding of the fixation of endoscope

316 within assembly 304 is further supported by the inclusion of twist lock stop element 330 which is provided with electrosurgical instrument 310 to control axial advancement of the electrosurgical element with respect to assembly 304. See col. 27, lines 8-12 and Fig. 16. In other words, Underwood teaches the independent advancement of the electrosurgical device with respect to an access device, but teaches a viewing apparatus that is fixed with respect to the access device (and with respect to the aspiration catheter). According, Applicant submits that Underwood does not teach each and every element of the claims and therefore cannot anticipate Claim 1 or Claims 2, 4, 5, 10, 11, 13-18, 25 and 26 which depend therefrom. Applicants request reconsideration, withdrawal of the rejections under §102 and full allowance of Claim 1 and Claims 2, 4, 5, 10, 11, 13-18, 25 and 26 which depend therefrom.

Rejections under 35 U.S.C. §103

Claim 3, 7, 8 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Underwood. As discussed above, Applicant submits that the rejected claims depend from Claims that are in condition for allowance. Accordingly Applicant requests reconsideration, withdrawal of the rejections under §103 and full allowance of Claims 3, 7, 8 and 21.

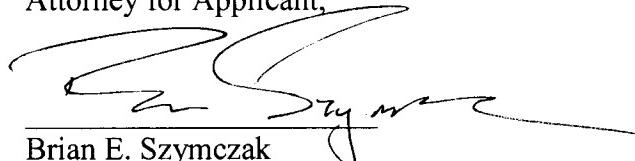
CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-0359 of ArthroCare Corporation in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.391.3961.

Respectfully submitted
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